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Attorneys for Defendant:  
CARLOS E. KEPKE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS E. KEPKE,

Defendant.

Criminal No. 3:21-CR-00155-JD

**DEFENDANT CARLOS E. KEPKE'S  
PROPOSED VOIR DIRE**

Defendant Carlos E. Kepke (“Kepke”), by and through undersigned counsel, hereby respectfully submits the following proposed voir dire questions. Mr. Kepke has reviewed the United States’ Proposed Voir Dire, ECF No. 130, and advances the following changes, additions, and deletions. For the Court’s ease of review, Mr. Kepke has tracked these changes.

Mr. Kepke also respectfully requests leave to orally ask supplemental questions as may be occasioned by the responses of prospective jurors.

### **VOIR DIRE QUESTIONS**

1. What is your name?
2. How old are you?
3. What city or town do you live in?
4. How long have you lived there?
5. What is your occupation? (If not currently employed, please name your most recent prior occupation).
6. Who is (or was) your employer? If you are currently employed, have you been there for the last 5 years? If not, what did you do prior?
7. How long have you worked for this employer (or how long did you work there)?
8. What is the highest level of education you completed, including technical or trade school?
9. If you have any degrees, what are they, Wwhat was your major area of study, when did you receive your degrees, and what school(s) did you attend?
10. If you have children, what are their age(s) and occupation/employer (if applicable).
11. Please list the occupation/employer of your spouse, partner, or any other adults who live with you (if applicable).
12. Have you ever served on a jury before, and if so, how many times?
13. Were the jury/juries you served on civil or criminal?
14. Did the jury/juries you served on reach a verdict?
15. Have you ever served in the military? If so, in what capacity?
16. Are you acquainted with the Defendant in this case – Carlos E. Kepke?

17. Are you acquainted with any of the attorneys in this case – [List Attorneys].

18. [TBD], a Special Agent with the Internal Revenue Services, is also seated at the government's counsel table and will be assisting in the government's case. Are you acquainted with Special Agent [TBD], or anyone else who works for the Federal Bureau of Investigation?

19. The following people may be witnesses who will testify during the trial of this case. Please state whether you are acquainted with any of these people, and if you are acquainted, describe how you know the person: [Refer to Witness Lists]

20. Have you seen, heard, or read anything about this case or about any of the witnesses before coming here today?

a. If yes, please describe.

~~19.21.~~ This is a criminal case. In a criminal case, the government has accused a person of committing a crime, but that does not necessarily mean the person is guilty of the crime. The law requires you to presume that the defendant is innocent, and you may not convict the defendant unless the government has proven that the defendant is guilty of the crime beyond a reasonable doubt. Do you have any difficulty with this concept that would prevent you from serving as an impartial juror in this case?

22. In a criminal case, the government must prove the defendant is guilty beyond a reasonable doubt. Every defendant is presumed innocent and cannot be convicted unless the jury unanimously, based solely on the evidence in the case, decides that his guilt has been proven beyond a reasonable doubt. The law does not require that the government prove its case beyond all doubt. Would you have any difficulty in following this instruction?

a. Do you have any difficulty with this concept that would prevent you from serving as an impartial juror in this case?

~~a.b.~~ Do you believe that the government should be held to a different standard than proof beyond a reasonable doubt?

23. Defendants are not required to testify, and they are not required to present any evidence or put on any witnesses in the case. If the government does not meet its burden under the "reasonable doubt" standard, the jury may not convict the defendant, even if the defendant presents no evidence or

1 witnesses. Do you have any difficulty with this concept that would prevent you from serving as an  
 2 impartial juror in this case?

3 ~~b.a.~~ If the defendant does not testify, will you think he is probably guilty or trying to hide  
 4 something? If yes, please explain.

5 ~~20.24.~~ Do any of you have any moral, religious, philosophical, or political principles that make  
 6 you reluctant to serve on a jury in a criminal case? Do you believe when a defendant is charged with a  
 7 crime, that must mean he or she did something wrong?

8 ~~21.25.~~ This case involves alleged criminal violations of the Internal Revenue Code. This is not a  
 9 civil proceeding. Is there anything about this type of case that would make you reluctant to serve on a  
 10 jury?

11 ~~22.26.~~ Do any of you hold strong personal or philosophical feelings about the tax system of the  
 12 United States, or believe that the federal tax laws of the United States are unconstitutional? Do you have  
 13 any views, positive or negative, of professionals who assist the wealthy with tax planning?

14 ~~23.27.~~ Have you, or any of your close friends or family members, had any direct dealings with  
 15 the Internal Revenue Service, such as a civil audit, collection activity, or criminal investigation, or had  
 16 contact with Internal Revenue Service personnel?

17 a. If so, when did this occur?

18 b. What was the nature of the interaction?

19 ~~c. Were you or the person involved satisfied with how the Internal Revenue Service~~  
 20 ~~handled the matter?~~

21 ~~d. In your opinion, did the Internal Revenue Service employees handle the matter~~  
 22 ~~fairly and courteously?~~

23 e. Do you have any feelings or opinions about the Internal Revenue Service as a  
 24 result of this that would impact your ability to impartially serve as a  
 25 juror in this case?

26 28. Please describe any interaction(s) you or close friends and relatives have had with  
 27 attorneys or agents from the Department of Justice or the Internal Revenue Service.

28 ~~24.29.~~ Do any of you prepare tax returns for yourself?

1 25.30. If you normally have your income tax returns prepared by a professional tax return  
2 preparer, is there anything about that experience that may affect your ability to objectively evaluate the  
3 evidence in this case which involves tax professionals?

4 26.31. Do any of you prepare tax returns for any individual or entity other than yourself and  
5 your close family?

6 27.32. Are any of you self-employed?

7 28.33. Do any of you conduct business internationally?

8 29.34. Do any of you maintain foreign financial accounts?

9 ~~During this trial you may hear testimony from a law enforcement officer who acted as an~~  
10 ~~undercover agent. That is, he assumed a fictitious identity and had meetings and conversations while~~  
11 ~~employing that fictitious identity. Do you have any views about the use of this lawful technique that~~  
12 ~~would make it difficult for you to be fair and impartial in this case?~~

13 30.35. Are you familiar with offshore or foreign trusts? If so, please explain your understanding  
14 and how you came to learn this.

15 31.36. Have you, or someone close to you, ever been the victim of a crime?

16 a. If so, is there anything about that experience that would prevent you from being a fair and  
17 impartial juror? do you believe the matter was handled fairly by law enforcement?

18 32.37. Have you, or someone close to you, ever been accused of a crime?

19 a. If so, is there anything about that experience that would prevent you from being a fair and  
20 impartial juror? do you believe the matter was handled fairly by law enforcement?

21 38. Have you, or someone close to you, ever worked in law enforcement or sought  
22 employment (paid or volunteer) with any law enforcement agency or the government?

23 39. Have you, or any family member, ever been employed in the legal profession or had any  
24 legal training (including taking law courses, a paralegal program, or on-the-job training)?

25 a. If yes, do you think this would make it difficult for you to follow the Court's instructions  
26 regarding the law applicable to this case?

27 40. What clubs or organization do you belong to or have belonged to in the past? If you have  
28 ever held office in any organization, please describe.

1  
2 41. Do you have difficulty with your hearing, sight or any other medical problem which  
3 might impair your ability to devote your full attention to this trial?

4 42. If you had opinions on what the law should be and your opinions were different from the  
5 Court's instructions, do you think you would hesitate to follow the Court's instructions?

6 43. If, after hearing all the evidence, you were of a view that was different than the other  
7 jurors and you believed yourself to be correct, would you have difficulty sticking to your beliefs?

8 33.44. Do you believe that you can and will listen to the evidence presented by both sides in this  
9 case, accept the jury instructions given by the Court, and engage actively in the deliberation process with  
10 your fellow jurors? If not, then please explain your answer.

11 34.45. Do you understand and read the English language?

12 46. Do you have a hardship with serving on a trial during the month of December?

13 35.47. If you were sitting where Mr. Kepke is sitting, is there any reason why you might not  
14 want someone with your background and viewpoints serving on the jury that will decide your fate?

15 36.48. ~~Is there anything else you would like the judge to know?~~ Is there any information not  
16 asked for by the Court that you feel the Court or the parties should know about you? If so, what is that  
17 information?

18  
19 Dated: November 9, 2022

Respectfully submitted,

20  
21 By: /s/ Grant P. Fondo  
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